Supreme Court, U.S.
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No. 99-1837

IN THE

Supreme Court of the United States

WILLIAM ROBERT ANDERSON, SR. and
PATRICIA WALTERS ANDERSON,

Petitioners,

v.

CLINTON FOR PRESIDENT COMMITTEE,
CLINTON-GORE '92
GENERAL ELECTION COMPLIANCE FUND, *et al.,*
Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

SUPPLEMENTAL BRIEF OF PETITIONERS

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11 pp

Supplemental Statement

Petitioners William R. and Patricia W. Anderson request consideration of this Supplement to the pending Petition for Writ of Certiorari.

We think it is important to bring to this Court's attention the full texts of certain of Respondents' statements that had been referred to in documents before the court below, but quoted only partially or even paraphrased. As such, the full meaning and purpose of the statements were obscured. Petitioners obtained most of the documents from the Federal Election Commission through the Freedom of Information Act, and include them in the Appendix.

By comparing Respondents' statements made in the early part of the audit [Appendix B] to the two made in response to the FEC interim audit reports [Appendix C and D], and the response to post-audit FEC complaint MUR 4192 [Appendix E], it can be seen that as the audit progressed and repayment was called for by the FEC's interim report, Respondents began to manipulate the facts. They misled the FEC to the conclusion that Petitioners had greedily obtained thousands of unnecessary contributor-signed documents for the financial gain. The documents were tangible proof, though none should have been necessary, that Respondents owed the U.S. Treasury $3.6 million in federal funds which had been over paid in the first place based on another set of deceiving qualifying statements submitted from Little Rock.

In tailoring their carefully worded statements which helped them avoid repayment, they created a gigantic and duplicitous statement which served one purpose for the audit, and another for the court below (technical truth) as shown by Appendix F. It is clear Respondents cleverly substituted accounting for the 38,000 "not permissible" redesignations (which concerned auditors), with a description of Petitioners' responsibility for redesignations for the excessive portion of contributions (which numbered 100 and were of no concern of the auditors. See Appendix G).

This way, Respondents can successfully mislead the FEC during the audit, and post-audit, they can claim "truth," and, of course, privilege. Pretty Slick.

By way of brief orientation, Petitioners sued Respondents for libelous, self-serving statements submitted to the FEC during its audit of the Clinton/Gore '92 campaign committees. Respondents filed a motion to dismiss based on 2 U.S.C. 437d(c) which states in relevant part: " No person shall be subject to civil liability to any person...for disclosing information at the request of the Commission."

District Court Judge Tom Hogan stated:

> The statutory question is close one. The breath of 437d(c) is an issue of first impression. Given this context, the Court declines to hold that all submissions ... are shielded from civil liability. Under the specific facts of this, however, it is clear that [Respondents] July 6, 1994 response was indeed requested by the audit staff.

The court below affirmed and added:

> [T]he auditee will understandably feel it imperative to provide answers to questions raised by the audit report.
>
> The district court reasonably rejected appellees' assertion of an immunity so broad that it would even include gratuitous information that was not responsive to the concerns in the [interim audit] report.

But any comparison of Appendix B with C, D, and E, shows that Respondents' information that the lower courts accepted as true and pertinent, is indeed misleading, plainly

defamatory, and no way responsive to the concerns of the FEC auditors.

Petitioners deserve the right to present their evidence in an unbiased court of law. Respondents should be held accountable and any penalty against them held as an example of the consequences for making misleading statements.

For more than five years we have suffered. We have lost our good reputation and peace of mind. But this Court has much more to worry about than just Bill and Pat Anderson. Unless the lower courts precedent-setting decision is reversed, or better defined, privilege in FEC audits will live on. There are bound to be other powerful political committees, and campaign lawyers, who know the ropes. Privilege will eventually corrupt the integrity of all FEC audits.

Therefore, we pray that this Court grant our Petition and hear our case. This is a dangerous and irresponsible ruling.

One final thought. There are some in this society who cheat the entitlement system as shown in Appendix A. President Clinton thinks this is fraudulent activity. Petitioners agree. But it seems unfair that only the segment of society who cannot afford fancy lawyers, or those we have no political power, are the only people forced to obey the law, or face the consequences of violating it.

We beg this Court to see that "privilege" at the audit level is bad law. There is no reason to protect with "privilege" what ordinary "truth" protects very well. Under the current free-wielding circumstances, Petitioners wonder what's the point of an audit? Is no one willing to cry out, as the story goes, that the emperor has no clothes!

Respectfully submitted,

William Robert Anderson
Patricia Walters Anderson
Petitioners *pro se*
June 16, 2000